

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFERY AIUTO,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case Number 18-11282

Honorable David M. Lawson

Magistrate Judge Elizabeth A. Stafford

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT WITHOUT PREJUDICE**

Presently before the Court is the report issued on September 28, 2018 by Magistrate Judge Elizabeth A. Stafford pursuant to 28 U.S.C. § 636(b), recommending that the Court dismiss the complaint without prejudice because the plaintiff has failed to serve the summons and complaint on the Commissioner within the time allowed by Federal Rule of Civil Procedure 4(m). Fed. R. Civ. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”). Although the report stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties’ failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge’s report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the report and recommendation (ECF No. 7) is **ADOPTED**, and the complaint is **DISMISSED** without prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Date: November 15, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 15, 2018.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI